

REMARKS

Status Of The Claims

Claims 1-5, 18, 20, and 21 are amended.

Claims 6-17 are canceled.

Claims 20-21 are withdrawn.

With the current amendment, claims 1-5 and 18-21 are pending in this application. Support for amended claim 20 is in the specification at Example 1, lines 5-30 and in Figure 1. No new matter is introduced.

Response To Request For Information Under 37 C.F.R. § 1.105

The Examiner states that the Applicant and the Assignee of this application are required under 37 C.F.R. § 1.105 to provide information that the Examiner has determined is reasonably necessary to the examination of this application.

In response, Applicants concurrently file with this response a “Reply to Request for Information under 37 C.F.R. § 1.105” in the form of a declaration by Mr. Todd Rands, attorney for the Assignee of the current invention.

Response To Claim Objections

Claims 1-3 are objected to because of informalities. In response, claim 1 is amended to recite “A seed” instead of “Seed.” Claims 2 and 3 are amended to recite “part” instead of “parts.”

Claims 5-10 and 12 are objected to under 37 CFR § 1.75(c) “as being of improper dependent form for failing to further limit the subject matter of a previous claim.” In view of Applicants’ amendments to claim 5 to read as an independent claim and the cancellation of claims 6-10 and 12, the objections are overcome.

Response To Claim Rejection - 35 U.S.C. § 112 (second paragraph/indefinite)

Claims 18 and 19 are rejected under 35 U.S.C. § 112, second paragraph as indefinite for reciting “bentgrass plant ASR-368,” which according to the Examiner, is an arbitrary designation.

In response, Applicants amend independent claim 18 as suggested by the Examiner, to refer to the ATCC deposit accession number PTA-4816. In view of such an amendment, Applicants respectfully request that the rejection of claims 18 and 19 under 35 U.S.C. § 112 as indefinite be withdrawn.

Response To Claim Rejection - 35 U.S.C. § 112 (first paragraph/enablement)

Claims 1-12, 18, and 19 are rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. According to the Examiner, although Applicants have deposited the plant, “there is no indication in the specification as to public availability.” In response, Applicants herewith submit concurrent with this response a declaration by Todd Rands, attorney for the Assignee of this application, declaring that the deposit is made under the Budapest Treaty and that “the instant invention will be irrevocably and without restriction released to the public upon the issuance of a patent.” Also submitted is a copy of the ATCC seed deposit attesting to the statement in the specification that the deposit was made under the Budapest Treaty (*see* page 23, line 35).

Response To Claim Rejection - 35 U.S.C. § 112 (first paragraph/written description)

Claims 11 and 12 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. According to the Examiner, Applicants do not describe (1) “an amplicon diagnostic of bentgrass plant ASR-368,” and (2) “other bentgrasses that produce such a diagnostic amplicon other than a bentgrass having event ASR-368.”

In view of Applicant's cancellation of claims 11 and 12, this rejection is rendered moot.

Claim Rejoinder

Applicants respectfully request that withdrawn claims 20 and 21 be rejoined after the allowance of claims 1-4. Claims 20 and 21 have essentially the same scope as claim 1. Claims 20 and 21 are an alternative way of claiming the same event using a genetic description of the event instead of a reference to the ATCC deposit. Claims 20 and 21 are, of course, enabled by the ATCC deposit.

Fees

A request for a three-month extension of time and the authorization for the associated fee are filed concurrently with this paper. However, should any additional fees under 37 C.F.R. §§ 1.16-1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from the Howrey LLP Deposit Account 08-3038/11899.0236.PCUS00.

Respectfully submitted,



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